

Hearing Date: November 13, 2018, 9:30 a.m.
Hearing Location: Utica, NY
Objections Due by: November 6, 2018

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

Vincent D. Iocovozzi
Debtor

Chapter 13

Case No. 13-62035-6-dd

MOTION TO MODIFY CHAPTER 13 PLAN POST-CONFIRMATION

The Debtor, Vincent D. Iocovozzi, through his attorney, Carol Malz, Esq., respectfully represents the following in support of his Motion to Modify his Chapter 13 Plan Post-Confirmation pursuant to 11 U.S.C. § 1329:

1. The Debtor filed a voluntary petition for relief pursuant to Chapter 13 of the United States Bankruptcy Code on December 20, 2013.
2. The Debtor's five year Chapter 13 Plan was confirmed by Order of Confirmation on January 22, 2015, and provides a 100% dividend to unsecured creditors.
3. The Debtor's Plan requires him to currently make plan payments of six hundred ninety four dollars (\$694.00) per month, and he is current on those payments.
4. The Debtor estimated a 100% dividend based on the value of non-exempt property, and the limited amount of unsecured debt. The dividend, however, was subject to change due to three outstanding matters: (1) the Debtor's divorce action; (2) the Debtor's legal malpractice action; and (3) the foreclosure action on the "camp" property in the Town of Exeter, Otsego County.
5. The settlements of the divorce and malpractice actions were approved by this Court, resulting in the three claims of the Debtor's wife being withdrawn, but no funds coming into the Plan.
6. The foreclosure action resulted in a \$148,863.59 deficiency, with GPO amending its claim to that amount.
7. The Confirmed Plan had estimated that \$28,020.85 would come into the Plan from the legal malpractice action, and the sale of the camp property. Thus, the expected revenue was reduced from \$76,220.85 to \$48,200.00.

8. Despite this, the Debtor has paid \$55,518.00 through September.

9. As of September 28th, the Trustee still had \$3,205.46 on hand. The sales of the two apartment buildings will net the Plan \$3077.62. The Debtor's October plan payment is \$694.00. This totals \$6,977.08.

10. The sale of the two apartment buildings also pays off the judicial lien of Lacy Katzen (claim no. 8).

11. The \$6,977.08 is sufficient to pay off the remaining \$4,086.37 secured claim of Mary Iocovozzi, now the claim of the Estate of Mary Iocovozzi (claim no. 13).

12. The Trustee's records show \$6,986.51 still due on the claim of the Herkimer County Treasurer for 329 S. Washington Street (tax map no. 120.25-3-82). However, Herkimer County reported, in its Motion for Relief from Stay, that Claim no. 16 was paid in full. Relief from stay removes any balance on the claim from being paid through the Plan.

13. The only unsecured claims are those of Ally Bank (\$4,472.78, claim no. 2) and GPO Federal Credit Union (\$148,863.59, claim no. 9). Through September, those creditors have been paid \$388.07 (>8.6% dividend) and \$9,587.37 (>6.4% dividend), respectively. (GPO was also paid \$4,320.00 through the Plan before its claim was amended.)

14. The Debtor respectfully requests to modify his Plan from sixty months to fifty seven months, making his October 2018 Plan payment his last one. The Debtor is dealing with the loss of the Herkimer funeral home in a fire.

15. The unsecured dividend would decrease from 100% to less than 10%.

WHEREFORE, the Debtor respectfully requests that this Court issue an Order pursuant to 11 U.S.C. § 1329 permitting the modification of the Chapter 13 Plan as requested; and granting such other and further relief as this Court deems just and proper.

Dated: October 21, 2018

/s/ Carol Malz
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